IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

Crl.Rev.Pet.No. 677 of 1999(B)

CC.38/1995 of JUDL.MAGISTRATE OF FIRST CLASS-II, MUVATTUPUZHA
CRA.195/1996 of I ADDL.ASSISTANT SESSIONS COURT, ERNAKULAM

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REVN. PETITIONER:

BALAN, S/O. VELAYUDHAN,
NILANTHANATHU HOUSE,
NERYAMANGALAM P.O.,
KOTHAMANGALAM.

BY ADV. SRI.T.O.XAVIER

RESPONDENTS:

STATE OF KERALA
REPRESENTED BY
PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM.

BY ADV. SRI. AMJAD ALI, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 23/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.P. NO. 3014/1999 IN CRL. R.P. NO. 677/1999

DISMISSED

23.05.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 677 OF 1999

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Dated this the 23rd day of May 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 27(1)(g), 27(2)(c) and (g) of the Kerala Forest Act, 1961 and sentenced as modified by the appellate court, to undergo simple imprisonment for one year each.

2. The prosecution case is that the revision petitioner/A5 along with A1 to A4 were found rolling logs of rose wood in the forest on 29.12.1991. The forest officials chased the accused and arrested A4 and A5. The rest of the accused could not be apprehended. The evidence adduced in the matter consisted of the testimony of PWs 1 to 5 of whom PWs 1 to 3 are the officials who caught hold of the accused. It is the case that the government have sustained a loss of Rs.6,000/-. A1 to A3 were acquitted. MO1, saw allegedly used was recovered. PW3, the forester was permitted to be treated as hostile as his testimony varied from the prosecution version as he stated that the accused 1 to 5 were carrying timber logs instead of rolling the same.

3. On a consideration of the evidence adduced in the matter, I find that no serious discrepancy has been brought out. The version of PWs 1 and 2, the officials who apprehended the accused is consistent and corroborate on material particulars. No credence can be attributed the version of DW1, as evidently she is an interested witness being a surety to accused No.5. I find that the prosecution version stands proved beyond reasonable doubt. The conviction is sustained.

3. So far as the sentence is concerned, considering the fact that the incident had taken place in the year 1991 and that more than 1 1/2 decades have elapsed since then and so far the revision petitioner was facing the proceedings, I find that the sentence is liable to be modified. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- and in default to undergo simple imprisonment for six months for the offence under Section 27(1) (c). No separate sentence is awarded for the offence under Section 27(2)(c) and (g). The revision petitioner is granted two months time from today onwards to pay

the amount of compensation. The revision petitioner shall appear before Judicial First Class Magistrate-II, Muvattupuzha on **25.07.2007** to receive sentence.

The Crl.R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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